

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

In re Scotts EZ Seed Litigation

Civil Action No. 12-CV-4727 (VB)

**PLAINTIFFS' NOTICE OF MOTION
FOR SUMMARY JUDGMENT ON
COUNTS VIII AND IX**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that, upon the Declaration of Joseph I. Marchese, the Declaration of Colin Weir, the Declaration of Douglas Karcher, the Local Rule 56.1 Statement, the exhibits attached thereto, and the accompanying Memorandum of Law, plaintiffs Michael Arcuri, Gwen Eskinazi, Stacy Lonardo, Lance Moore, and Nancy Thomas hereby move before the Honorable Vincent L. Briccetti for an Order, pursuant to Rule 56, granting summary judgment on Count VIII (New York's GBL § 349) and Count IX (GBL § 350), and entry of judgment for statutory damages pursuant to GBL §§ 349(h) and 350-E(3).

PLEASE TAKE FURTHER NOTICE that pursuant to the Court's April 29, 2016 Scheduling Order, Defendant's opposition to this motion, if any, must be served on or before September 1, 2016, and Plaintiffs' reply in further support of this motion must be served on or before October 13, 2016. Plaintiffs hereby request oral argument on the instant motion.

Dated: June 30, 2016

Respectfully submitted,

By: /s/ Scott A. Bursor
Scott A. Bursor

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